2553

SUPREME COURT OF THE UNITED STATES.

No. 272.

THE UNITED STATES, APPELLANTS,

vs.

HORTENSE LACOSTE LEONARD, WIDOW OF GILBERT LEONARD, LEOCADIE LEONARD, WIDOW BEAUREGARD, AND AUGUSTE DELASSUS.

APPEAL FROM THE DISTRICT COURT, U. S., FOR LOUISIANA.

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GIDEON, Printer.

United States district court, eastern district of Louisiana—sitting in chancery.

WIDOW LEONARD et al. vs. The UNITED STATES. } No. 119.

Be it remembered that heretofore, to wit, on the sixteenth day of June, being at the May term, A. D. 1846, of the said court, Widow G. Leonard et al., by their solicitors, Dennis and Pitot, and W. W. Hoffman, esqrs., came into the office of the clerk of said court, and filed their petition, which is in the words and figures following, to wit:

To the honorable the judge of the district court of the United States, in and for the district of Louisiana:

The petition of Hortense Lacoste, widow of Gilbert Leonard and his universal legatee, of Leocadie Leonard, Widow Beauregard, and of Auguste Delassus, all residing in the city of New Orleans, respectfully represents:

That in the year 1803, Don Jayme Jorda, then a resident of the province of Louisiana, and desirous of obtaining by purchase a quantity of land from the duly constituted authorities of the government thereof, did apply to Don Juan Ventura Morales, the intendant general of the province of Louisiana and of West Florida, making known his wishes in relation thereto. That said application was favorably received, and the necessary measures were adopted to ascertain the value of said lands, in order that sales and conveyances in due form might be made to said applicant.

That afterwards, to wit, on or about the 2d day of January, 1804, the terms and conditions of said contracts being agreed upon, and the price having been paid by the said applicant, the said intendant general did, in due form, make a title, concession, and sale to said Don Jayme Jorda, of a tract or parcel of land containing forty thousand arpents, situate in the new establishment of St. Helena, district of Baton Rouge, bounded on the north part by a line parallel of the thirty-one degree of north latitude, which is the dividing limit between the domains of his Christian Majesty and those of the United States, from which part it extends to the post or pyramid marked on said limit by No. 30, and running east to the post or pyramid marked No. 43, which number means English miles measured on said line, and from the aforesaid point of thirty miles by a meridional line, running south eight degrees for a distance of one mile one hundred and ninety-two perches, (according to the Paris measure,) from which limit is drawn a parallel line to the aforesaid line of limit, running north 81 degrees 30 minutes east, up to the west bank of the river Amite or St. Helena, which river falls the boundary or natural limit of said parcel of ground, for the south part, and for the western part by vacant lands, as the

whole is shown by the plan filed in the suit of the Citizen's Bank vs. the United States, and pending before this honorable court.

That the said lands were duly located and surveyed by the proper officers of said Government, and the said grantee and vendee put in possession thereof; that the said conveyance of the said intendant, and the said survey and location, together with the plans of the same, are deposited and on file in the office of Octave De Armas, notary public in this city, and will be produced when required.

Your petitioners further represent, that, on or about the 15th of January, 1811, the said Jayme Jorda sold and transferred to Gilbert Leonard, the author of your petitioners, ten thousand arpens of the said lands, as will appear of the act passed before Stephen de Quiñones, then a notary in this city, and which act will be produced when required.

That the said title, derived as aforesaid from the Government of Spain, *were* duly presented and proved before the board of commissioners for the district in which the same *are* located, but the report of said commissioners was adverse thereto.

Petitioners further aver, that the said lands have been sold by the United States to sundry persons, since the title of those under whom your petitioners hold *were* made known. They further aver, that it is not their wish or intention to contest the validity of said sales or transfers by the United States, but to claim and secure the right to locate an equal quantity of land elsewhere, as authorized by law.

Your petitioners therefore pray that they may be permitted to file this their petition against the United States; that a copy thereof be served on their attorney for the said district of Louisiana. They further pray that the validity of their said right and title to said lands may be inquired into, and that the same be declared good and valid as against the United States, and your petitioners authorized to locate an equal quantity of land within the limits of said district of Louisiana; and petitioners pray for all other and further relief.

Signed, DENNIS & PITOT, and
W. W. HOFFMAN, *Attorneys.*

And further, at the same term and on the same day, the following citation was issued from the clerk's office, to wit:

United States district court, sitting in and for the district of Louisiana, to the marshal for the district of Louisiana, or his lawful deputy, greeting:

You are hereby commanded to summon S. W. Downs, United States attorney, to appear before the honorable judge of the district court of the United States, sitting in and for the district of Louisiana, at a district court to be holden at New Orleans, on the first Monday of July, 1846, then and there to answer a petition in chancery filed against the United States, wherein Widow Leonard et al. are petitioners and the United States are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable T. H. McCaleb, judge, this sixteenth day of June, New Orleans, 1846, and 70th year of American independence.

[SEAL.]

Signed, L. E. SIMONDS, *D'y clerk.*

Mem.—The defendant is to enter an appearance in the above cause, in the clerk's office, on or before the first Monday of July, 1846, otherwise the petition may be taken pro confesso.

(*Marshal's return on the foregoing citation.*)

Received this 16th day of June, 1846, and on the same day served copies of the within citation, plaintiffs' petition and documents annexed, on the within named S. W. Downs, esquire, United States district attorney, in the manner following, to wit, by leaving the same in his office, in New Orleans, in the hands of Alfred Perilliat, a free person over 14 years of age, and employed in said office; said attorney being at the time absent.

Returned 17th June, 1846.

Signed, W. F. WAGNER,
U. S. Marshal.

And further, at the same term, to wit, on the 11th of November, 1846, the defendants, by their attorney, appeared and filed of record the following answer:

WIDOW LEONARD et al.
vs.
THE UNITED STATES.

In the district court of the United States, for the district of Louisiana.

The answer of the United States, the defendants in the above named case, respectfully shows, that they deny all and singular the facts and allegations in plaintiff's petition contained.

Wherefore they pray that they may be hence dismissed, and that plaintiff be condemned to pay all costs.

Signed, THOMAS J. DURANT,
Attorney U. S.

And afterwards, at the May term, to wit, on the 22d of May, 1848, the following entry was made of record in this case:

WIDOW LEONARD et al.
vs. 119.
THE UNITED STATES.

On motion of W. W. Hoffman, esq., of counsel for the plaintiffs in this cause, it is ordered that the depositions of Messrs. Stephen Mazureau, Louis Bouligny, and F. J. Livaudais, to be offered as evidence on the trial of this cause, be taken on Wednesday next, at 4½ o'clock,

p. m., before N. R. Jennings, commissioner, or Robt. M. Lusher, deputy commissioner, under the sixth and ninth rules of this court, and that the district attorney be duly notified thereof.

And further, at the same term, to wit, on the 24th day of May, 1848, the following entry was made of record in this case:

WIDOW LEONARD et al.
vs.
THE UNITED STATES. } 119.

On motion of W. W. Hoffman, esq., this cause was fixed for trial on Tuesday the 13th of June proximo.

And further, at the same term, to wit, on the 25th day of May, 1848, the plaintiffs appeared and filed of record the following replication:

To the honorable the judge of the district court of the United States, in and for the district of Louisiana.

The widow Leonard et als., for replication to the answer of the United States in the matter of said widow Leonard et als. vs. said United States, respectfully represents: That these replicants, reserving all exception, &c., saith, that they do and will aver, maintain, and prove their said bill to be true and sufficient in law, and that the answer of said defendants is insufficient in law to be replied to; all which matters and things these repliants are ready to aver, maintain, and prove as this honorable court shall direct, and humbly pray as in and by their bill they have already prayed.

(Signed) DENNIS & PITOT & HOFFMAN,
Solicitors.

And afterwards, at the same term, to wit, on the 13th day of June, 1848, the following entry was made of record:

WIDOW LEONARD et al.
vs.
THE UNITED STATES. } 119.

This case was to-day opened, and several documents offered as evidence on the part of the plaintiffs.

The court then ordered that the further trial of the cause be continued.

(Evidence offered by complainants.)

1o. The plaintiffs offered in evidence a certified copy of a concession of 40,000 arpents of land by Morales to J. Jorda, dated 2d January, 1804; which document is as follows:

No. 2.—*Concesion*

De 40,000 arpanes de tierra planos, hecha á titulo de venta al Cap'n Don Jayme Jorda, en la poblacion de Sta. Helena, distrito de Baton Rouge.

LOUISIANA.

Recorded in the office of the clerk to the commissioner of land claims west of Pearl river and east of Mississippi, in lib. F, No. 1, fol. 376.
(Signed) CHARLES S. COSBY, *Clerk.*

Don Juan Ventura Morales, contador de exercito, intendente y super intendente interino de la provincia de la Florida occidental, ministro encargado para el arreglo y conclusion de los asuntos de real hacienda, en esta de la Luisiana.

Por quanto, habiendose presentado en este tribunal el capitan de infanteria de milicia, Don Jayme Jorda, proponiendo comprar á la real hacienda quarenta mil arpanes de tierra planos de los vacantes y realengos en el distrito de Baton Rouge, cuyo importe á justa tazacion satisfaria de contado en certifiaciones de credito despachadas por este ministerio de real hacienda, mande para motivar el expediente, que por secretaria, se pusiese copia certificada del oficio dirigido por esta intendencia, á los sres. comisarios de la entrega de esta provincia, de resultas de la solicitud de comprar cinquenta mil arpanes, que hiso Don Thomas Urquhart, y de la respuesta que hisieron, y que se diese vista al sor. fiscal: que evaguardos estos pasos, y no resultando contradicion á la solicitud, de la respuesta dada por el citado sr. fiscal, que opino favorable, pidiendo si pasase orden al sor. Coronel Don Carlos de Grand Pré, gobernador, y subdelegado de real hacienda en Baton Rouge, para que nombrase dos expertos, que en calidad de estimadores, con otras dos que señalase el comprador, y con dos testigos de asistencia, se procediese al justiprecio, apeo, y deslinde de los quarenta mil arpanes de tierra, y que remitiese las diligencias para lo demos propuesto; que en seguida mande poner testimonio del decreto con que se pas oa la consulta del sor. auditor de guerra, el expediente promovido por el indicado Urquhart sobre igual solicitud, y del dictamen que extendio en consequencia, y verificado provey auto, mandando librar despacho al enunciado señor gobernador y subdelegado, como propuso el señor fiscal, y para los efectos que determino, como efectivamente se verifico: que en vertud del se dio curso á las diligencias, y desde luego se midieron; deslinderan, apearon, y amojonaron los quarenta mil arpanes de tierra planos, solicitados por el referido Cap'n Don Jayme Jorda, en un cuerpo todos, y en el nuevo establecimiento de Santa Helena distrito de Baton Rouge, y parage que se nominará con exprecion de linderos, rumbos, y distancias para la inteligencia: los quales quarenta mil arpanes de tierra, que son planos se tazaron en quarenta mil reales de plata, á razon de un real cada uno, de que mande dar vista al señor fiscal: y conformandose con la estimacion hecha, y en consequencia, pasé el expediente al agrimensor gral. Don Carlos Trudeau, para que examinase las operaciones del particular Don Vicente Pintado, y que hablandolas conformes tomase razon, y proveyese del plano doble para acompañar con el titulo: que verificadas estas formalidades, mande que el citado expediente pasase á los señors ministros de real hacienda para que se evacuase lo pedido por el señor fiscal, que fue el que se ajustase

el valor de los mencionados quarenta mil arpanes de tierra planos, para que previo el entero en arcas reales se proveyese al interesado del titulo en forma; que verificada la liquidacion entero en arcas reales el enunciado Capn. Don Jayme Jorda, quarenta y un mil ciento ochenta reales de plata: los quarenta mil, por el imposte de los quarenta mil arpanes de tierra planos, al respecto de un real cada uno, y los mil ciento y ochenta restantes por el derecho de la media annata, y dies y ocho por ciento de su conducion á España, segun se acredita de la carta de pago despachada por el ministerio de real hacienda, con fecha treinta y uno de Diziembre, del año proximo pasado, á que me remito: en cuyo virtud, y constando de la medida y plano dado por el agrimensor gral. Don Carlos Trudeau, distinguido con el No. 1650, que se unira a este titulo para la constancia é inteligencia de lo que se expresará: que dichos quarenta mil arpanes de tierra estan cituados en el nuevo establecimiento de Santa Helena, jurisdicion de Baton Rouge, lindando al este con el paralel de los treinta y un grados de latitud norte, limite divisorio entre los dominios de S. M. C. y los de los Estados Unidos de America: por cuya parte se extiende desde el poste o piramide marcado en dicho limite con el N. 30, y corriendo acia el este, hasta la que se halla marcado con el N. 43, que denota millas Inglesias medidas en dicha linea; y des de el citado punto de 30 millas, una linea meridional, corriendo al sur, ocho grados y treinta minutas este, la distancia de un mil ciento noventa y dos perchas lineales de Paris; desde cuyo termino corre una parabla á la anterior linea con direccion del norte, 81 grads. 30 minutas este, hasta la orilla del oeste del rio Amit y Santa Helena, cuyo rio sirve de lindero natural á estos 40,000 arpanes de tierra por la parte antratica, y por la del occidente con tierras vacantes y realengas. Por tanto, y usando de las facultades que me estan cometidas en nombre de S. M. (Dias le gue.) concedo al referido Capitan Don Jayme Jorda, á titulo de venta las quarenta mil arpanes de tierra planes que ha solicitado, y se han medido, apeado, y mapeado en el parage, vaxo los linderos, rumbos, y distancias, que se han relacionado y se expresan en el plano de que se ha hecho mencion: y en consequencia le imparto de ellos entero y directo dominio, para que como suyos propios, y como tierra comprada, y pagada á la real hacienda los posea, cultive, y disponga de ellos á su voluntad: y lo doy poder para que aprehenda su posesion, y en la que le pongo y amparo sin perjuicio de tercero que mexor derecho tenga: vaxo la condicion de que ha de cumplir con lo que le comprehenda en la instruccion formada y publicada por esta intendencia en 17 de Julio, de 1799, de que se le adverte para no alegar ignorancia. En fé de lo qual mande librar el presente, firmado de mi mano, sellado con el de mis armas, y refrendado del infrascripto escribano de real hacienda, quien, como la contaduria pral., tomara la rason. Dado en la Nueva Orleans á dos de Enero, de mil ochocientos quatro.

JUAN VENTURA MORALES.

Por mdo. del Sor. Intendente CARLOS XIMENES. [L. S.]

Por la contaduria pral. del minist. de rl. haza. de nuestro cargo, se tomo razon del tito. antecede. y se notá al folio 39, del libro destinado á esta fin. Nueva Orleans, 4 de Febrero, de 1804.

GILBERTO LEONARD,
MANUEL ARMIREZ.

Queda tomado rason del titulo antecedente desde 50 hasta la 51 del libro, que esta á mi cargo destinado á el efecto para las de esta clace.

CARLOS XIMENES, *N. P.*

[For map see original, p. 13.]

Don Vincente Sebasto. Pintado, capitan de cavaleria de milicias, y segundo agrimensor de esta provincia, &c., certifico, aver dado posesion á Don Jaime Jorda, por medio de su apoderado, en este puesto, que es Don Armand Duplantier, y con asistancia de los testigos, Don Anto. Gras y Don Thomas Valentin Dalton, de un terreno de quarenta mil arpanes planos, medidos á la percha de Paris, de dies y ocho pies de la misma ciudad, contando cien perchas planas por arpan, segun costumbre agraria en esta provincia; los que compra de la real hacienda el antedo. Don Jaime Jorda, y fueran mandados amedir y estimar, por despacho del señor intendente general de esta provincia, con fecha tres de Setiembre ultimo, cometido al Señor Don Carlos de Grande Pré, coronel de los reales exs., y gobernador de estos establecimientos, y subdelegado de la intendencia general, por cuyo señor me fui notificado el antedo. despacho y su contenido; el dho. terreno esta situado en el nuevo establecimiento de Santa Helena, jurisdicion de Baton Rouge, imediado ô lindado á la parte aretica con el paralelo de los trenta y uno grados de latitude norte, limite divisorio entre estos dominios de S. M. (que Dios guarde) y los de los Estados Unidos de la America, por cuyo parte se extiende desde el poste ó piramide que se halla marcado en dho. limite con el numero trenta, y corriendo azia el este, hasta la que se halla marcado con el numero quarenta y tres, cuyo numero denota millas Inglesas medidas en dha. linea, y desde dicho punto de trenta millas, una linea meridional corriendo al sur ocho grados y trenta minutas este de la brujula, la distancia de un mil ciento noventa y dos perchas, lineales de Paris, de cuyo termo. corre una paralela á la anteda. linea de limite, con direccion del norte ochenta y uno grados trenta minutas este de la brujula, hasta la orilla del oeste del rio Amit ó Santa Helena, cuyo rio Sirve de lindero, o confin naturale á dho. terreno, por la parte antrastica, y por la del occidante con tierras aun vacantes; como todo se demuestra mas ampliamente, en el plano que antecede, dado para la intelligencia, los dhos. quarenta mil arpanes fueran evaluados, por Don Pedro Allin y Don Felix Bernardo Dumontier, estimadores nombrados de oficio, y Don Felipe Heky y Don Bernado Dubrocar, nombrados por el apoderado de la parte interesado, y de unanime acuerdo de los

cuatros estimadores los taxaran en la suma de quarenta mil reales de plata fuerte, ó a razon de un real de plata fuerte cada arpan, por ser dho. terreno de calidad inferior, a las que han sido ya medidas y estimadas a mayor precio, para los dos primeros pretendientos. Y hallandose presente el antede. Don Armand Duplantier, apoderado del interesado Don Jaime Jorda, se conformo, y recivo desde luego, como relive dho. terreno y de el se da por entregado a su voluntad, en cuyo testimonio, lo firmo, con dhos. estimadores y testigos, en Baton Rouge, a veinte y siete dias del mes de Octubre, de mil ochocientos y tres años.

(Firmado,) ARMAND DUPLANTIER,
VICENTE SEBASTIANO PINTADO,
FELIX BERNARDO DUMONTIER,
PEDRO ALLIN,
FELIPE HEKY,
BERNARDO DUBROCAR,
ANTONIO GRAS, y
VALENTIN THOMAS DALTON,

Y mas abaxo.

En la oficiana de agrimensura general se tomo razo, del antecedente plano y relacion sentado en libro D, No. 4, folo. 7, vo. 66, al No. 1650, de las expeds. de apeo. Firmado yo, el presente agrimr. rl.

Don Carlos Trudeau, agrimensor real y particular de la provincia de la Luisiana, certifico, las presentes copias conforme á los originales, que se hallan agregados en los expedientes del asunto. Doy la presente en virtud del decreto del señor intendente general, en fecha quatorze del presente mes, Noviembre viente y uno, de mil ocho cientos y tres años.

CARLOS TRUDEAU, *Agr. rl.*

EASTERN DISTRICT OF LOUISIANA, *to wit:*

I, the undersigned deputy clerk of the U. S. district court for said district, do hereby certify, that the foregoing concession, &c., closing on the reverse hereof, is a true, faithful, and correct copy of the original, (belonging to the Citizens' Bank of this city,) produced in court and exhibited in evidence, on the 13th of June, 1848, on the trial of the case of Widow Leonard et al. vs. the United States, No. 119 of the docket of land causes, in the record of which cause I do now file this copy.

Witness my hand and the seal of said court, at N. Orleans, this 6th day of June, A. D. 1849.

(Signed) ROBT. M. LUSHER, [SEAL.]
D'y Clerk.

(*Translation of the foregoing document.*)

Concession of 40,000 superficial arpents of land, under title of sale to Captain Don Jayme Jorda, which land is situated in the post of St. Helena, within the district of Baton Rouge.

I, Don Juan Ventura Morales, comptroller for the army, intendant and sub-intendant pro temp. of the province of West Florida, and entrusted with the adjustment and settlement of the affairs of the royal treasury in the province of Louisiana, &c., &c.

[Endorsed in the margin.] Louisiana. Recorded in the office of the clerk to the commissioner of land claims, west of Pearl river, and east of the Mississippi, in lib. F, No. 1, fol. 376.

(Signed) CHARLES S. COSBY.

Don Jayme Jorda, captain of infantry, having applied to this tribunal, desiring to purchase from the royal treasury forty thousand superficial arpents of land, of those which are vacant, and which belong to the royal domain, in the district of Baton Rouge, offering to pay their value at a reasonable appraisement, in certificates of credit of the department of the royal treasury, I did order, with a view of acting on this application, that there should be made out by the secretary a certified copy of the official letter, which was addressed by this intendancy to the commissioners appointed for the transfer of this province, in relation to the application which was made by Don Thomas Urquhart to purchase fifty thousand arpents of land; also of the answer which was made by said commissioners, and that these be submitted to the señor fiscal, (solicitor of the crown;) this order having been complied with, and no objections having been made by the said señor fiscal, on the contrary, he being in favor of the application, and recommending that an order should be sent to the Colonel Don Carlos de Grande Pré, governor and sub-delegate of the royal treasury, in Baton Rouge, in order that he should appoint two persons of experience, who as appraisers, with two others, who are to be named by the purchaser, and also two witnesses, they should proceed to value, survey, and mark the limits of the aforesaid 40,000 arpents of land, and make a return of said proceedings, so as to carry out the object contemplated. I therefore ordered to be made out a certified copy of the decree, in virtue of which the auditor of war was consulted in relation to the proceedings had in consequence of the application made by Urquhart, and of the opinion which he, the auditor of war, gave; this having been done, I directed that an order be sent to the aforesaid mentioned governor and sub-delegate, as recommended by the said señor fiscal, and for the object mentioned by him, which was done; in virtue of said order, the proceedings of appraisement, survey, and measurement of the 40,000 superficial arpents of land petitioned for by Don Jayme Jorda, were immediately carried through, and the whole 40,000 arpents were located in a single bodyor tract in the new establishment (establecimiento) or post of St. Helena, within the district of Baton Rouge, at a spot or place which will be described hereafter; also the boundaries, distances, and directions, so as to be well understood; these 40,000 arpents were appraised at forty thousand bits of silver, or at the rate of a bit each arpent. Which valuation I ordered to be submitted to the señor fiscal, and he approving it, I directed that the proceedings be sent to the general sur-

veyor, Don Carlos Trudeau, in order that he should examine the operations of survey, which were made by Don Vincente Sebastian Pintado, and if he found them correct, to register them and furnish a duplicate of the plan to be annexed to the title; this having been done, I ordered the proceedings to be sent to the department of the royal treasury to have the calculation of the amount due for the land made out as recommended by the señor fiscal, so that, on the payment of the entire amount in the royal coffers, a regular title of property be given to the party in interest; this having been complied with, the aforesaid Don Jayme Jorda did pay in the royal coffers the sum of forty-one thousand one hundred and eight bits of silver, namely, forty thousand bits for the value of the said 40,000 superficial arpents, at the rate of a bit for each arpent, and the balance, one thousand one hundred and eight bits, for the duty of (media annata) half yearly tribute, and eighteen per cent. for the costs of transportation of said half yearly tribute to Spain, as shown by the receipt of payment delivered by the officers of the royal treasury, under date of 31st December last, and to which I refer. By the survey made out and the plan from the surveyor general, Don Carlos Trudeau, bearing No. 1650, which plan will be annexed to this title for a correct knowledge and understanding of the situation of the land, it appears that the said 40,000 arpents are situated in the new establishment or post of St. Helena, within the jurisdiction of Baton Rouge, bounded on the east by the thirty-one degrees latitude north, which is the boundary line between the domains of his Catholic Majesty and those of the United States of America, on which side they extend from the post or pyramid marked 30, in said line, in the direction east up to the post or pyramid marked 43, which gives the measurement by English miles, and from the said post 30, in the direction south eight degrees and 30 minutes east, the distance of 1,192 lineal perches of Paris; from thence in a line parallel to the first above mentioned line, in the direction north eighty-one degrees 30, minutes east, to the west bank of the river Amite or St. Helena, which river serves of natural boundary to the said 40,000 arpents of land, bounded on the south and west by vacant lands belonging to the King's domain. Therefore, in virtue of the power delegated to me by the King, (whom may God preserve,) I concede to the said Don Jayme Jorda, under title of sale, the 40,000 superficial arpents of land which he has petitioned for, and which have been measured and the boundaries marked at the place and under the limits, distances, and directions represented in the plan above alluded to. I impart to him, Don Jayme Jorda, full and entire sovereignty over the said 40,000 arpents, that, as his property, he having bought them from the royal treasury, and paid for them, he may possess, cultivate, and dispose of them whenever he thinks proper; and I authorize him to take possession of them, which possession I now give him, without prejudice to any third party who might have a better right, under the condition of observing and complying with the provisions of the law relative to lands, enacted and published by this intendancy on the 17th of July,

1799, of which I now notify him, so that he may not hereafter plead ignorance.

In faith whereof I have ordered these presents to be delivered, signed with my hand, sealed with the seal of my arms, and countersigned by the undersigned notary of the royal treasury, in whose office, as well as in the department of the comptroller, this act shall be registered.

Given in New Orleans on the 2d day of the month of January, 1804.

JUAN VENTURA MORALES.

By order of his excellency the intendant.

CARLOS XIMENES.

In the office of the general comptroller, department of the royal treasury, under our charge, the foregoing title has been registered, at folio 39 of the book for that object.

New Orleans, 4th February, 1804.

GILBERTO LEONARD,
MANUEL ARMIREZ.

The foregoing title has been registered in folio 50 to 51 of the book under my charge for that object, and for titles of a similar class.

CARLOS XIMENES.

(For the plat here see page 13 of this transcript.)

Translation of the certificate under the plat.

I, Don Vincente Sebastien Pintado, captain of cavalry of militias, and deputy surveyor of this province, &c., do certify having given possession to Don Jayme Jorda, through his agent in this post, Don Armand Duplantier, and assisted by the following persons, Don Antonio Gras and Don Thomas Valentine Dalton, a tract of land of 40,000 superficial arpents, by measurement of the perch of Paris of 18 feet of said city, and counting 100 superficial perches to the arpent, agreeably to the agrarian custom of this province, which tract was bought by the aforesaid Don Jayme Jorda from the royal treasury, and which was ordered to be measured and appraised by an order from his excellency the intendant general of this province, under date of 3d of September last, which order was addressed to Don Carlos de Grand Pre, colonel of the royal armies, governor of these (establecimientos) establishments or posts, and sub-delegate of the general intendancy, who did notify me of the aforesaid order, and of its nature. Said tract is situated in the new establishment or post of St. Helena, within the jurisdiction of Baton Rouge, and is bounded on the north by the 31 degrees latitude north, which is the boundary line between the domains of his Catholic Majesty (whom may God preserve) and the United States of America, extending from the post or pyramid marked 30 in said line, in the direction east, to the post or pyramid marked 43, which gives the measurement in English miles of the said line; and from post 30 south eight

degrees 30 minutes east, by compass, the distance of 1192 lineal perches of Paris; thence in a parallel line to the first above mentioned line in the direction north 81 degrees 30 minutes east, to the west bank of the river Amite or St. Helena, which river serves of natural boundary to the said tract, and bounded on the south and west by vacant lands; all which is amply and clearly demonstrated in the plan which precedes, and which is annexed for a correct knowledge and understanding of the situation of the land. These 40,000 arpents were valued by Don Pedro Allin, Don P. Hicky, and Don F. B. Dubroca, acting on behalf of the respective parties; and the aforesaid appraisers unanimously agreed on the value of 40,000 bits of silver, or at the rate of a bit per arpent, said land being of a quality inferior to those which have been previously measured for two applicants, and which were appraised at a higher rate. And Don Armand Duplantier, the agent of the party in interest, being aware of the appraisement made, did approve it, receiving said tract as bought, and acknowledging the delivery thereof to his satisfaction, and did sign these presents, with the appraisers and witnesses, in Baton Rouge, on the 27th day of the month of October, 1803.

(Signed) ARMAND DUPLANTIER,
VINCENT SEBASTIEN PINTADO,
FELIX BERNARDO DUMONTIER,
PEDRO ALLIN,
P. HICKY,
BERNARDO DUBROCA,
ANTONIO GRAS, and
V. T. DALTON.

In the office of general mensuration the foregoing plan and description have been registered in book D No. 4, folio 66, and the plan numbered 1650. Signed, I, the present surveyor.

I, Don Carlos Trudeau, roval and special surveyor of the province of Louisiana, do certify, that the above are true copies from the originals which are annexed to the proceedings of the subject matter, and in virtue of the decree of his excellency the intendant general, dated 14th of this month of November. I give these presents.

CARLOS TRUDEAU,
Royal Surveyor.

2o. The plaintiffs offered in evidence the depositions of F. Livaudais, A. Cavelier, and L. Bouligny, which depositions are as follows:

U. S. district court, for the district of Louisiana.

Land suit, No.

Clerk's office, May 24th, 1848.

Before me, the undersigned deputy clerk of the U. S. district court for the said district, authorized and empowered by the ninth rule of practice in this court in land causes, to act, in the absence of the clerk,

as commissioner in taking testimony in such causes, conformably to the sixth rule of practice, this day appeared the plaintiffs and defendants in the above entitled cause, the former by M. W. Hoffman, esq., of their counsel, and the latter by the U. S. district attorney for the district of Louisiana. Mr. A. Pitot also appeared for the plaintiffs.

Deposition of F. Livaudais.

Mr. J. F. Livaudais, a witness for the plaintiffs, being duly sworn, deposeth and saith: That he is a creole of Louisiana; that he was born on the 20th September, 1781; that he left Louisiana in 1784 for France, and thence returned to Louisiana in 1790, December 4th, and has resided in N. O. ever since. Deponent was acquainted with Geronimo Chiapella; that he knew him from 1791 up to the time of his death (which time he does not now recollect) as a resident of N. O.; that he, Chiapella, was well known to most persons in N. O. as a resident, being one of the old population; that at that time the population being sparse persons generally, in the city, knew each other well; that he, deponent, was acquainted with Juan Ventura Morales; that he knows [and] has often seen said Morales's signature. On being shewn on folio 71 of a record book of O. de Armas, notary public, now before him, an original doc. marked No. 1, and entitled "Titulo de concesion por venta de 35,000 arpanes de tierra planos, en el distrito de Baton Rouge, á Dn. Geronimo Lachiapella," he recognises the signature attached thereto, and purporting to be that of Juan Ventura Morales, to be the true and genuine signature of the said Morales. That he is also acquainted with the handwriting of Ximenes—Carlos Ximenes, who was the clerk of the tribunal of the intendant Morales, on the 6th of February, 1804, the date of the documents shown to him; that he knows the signature of Ximenes attached to said document to be his genuine signature; that he is acquainted with the handwriting of Manuel Armirez; that he believes the signature of Armirez annexed to the said document to be really the signature of said Manuel Armirez. That he knows the signature of Trudeau—Carlos Trudeau, surveyor general; that the entire certificate attached to said document and the plan of concession is in the handwriting of Trudeau, and signed by him, (which plan is numbered 1685, and exhibits a survey of 28,692 arpents, as described in the said concession to Chiapella;) that he also recognises the signature of Carlos Trudeau, attached to the certificate following plan numbered 1686, for 6308 arpents. He, deponent, is not acquainted with the seal of the intendant.

Cross examined.

Deponent never saw Morales write his name, but received letters from him; did see Ximenes write his name, and very often; rather thinks that he has seen M. Gilbert Leonard write his name; that he was in correspondence with Leonard; that he has seen Trudeau write his name very often.

(Signed) F. LIVAUDAIS.

2560.

(*Deposition of A Cavelier.*)

Mr. Antoine Cavelier, being sworn, (on the part of the plaintiffs,) deposeth and saith, that he was born in Louisiana in 1774; that he knew Mr. Jerome Chiapella as a resident in N. O. in 1804, and some time previously; that he was acquainted with Jayme Jorda, as a resident of New Orleans in 1804, and before then.

No cross questions by the d. attorney.

Signed, A. CAVELIER.

(*Deposition of L. Bouligny.*)

Mr. Louis Bouligny, for the plaintiffs, being sworn, deposeth and saith, that he was acquainted with Juan Ventura Morales, who was contador, and acting as intendant of the province of Louisiana. Being shown the document already referred to in the deposition of Mr. Livaudais, as No. 1, deponent says, that he recognises the signature attached to said document as really the signature of Juan Ventura Morales; that he knows the handwriting of Carlos Ximenes, notary of the government; that he recognises the signature attached to said document as really that of Ximenes; said document bearing date 28th January, 1804. Also knows the signature of Manuel Armirez, acting treasurer, (in place of Leonard,) of the province of Louisiana, as also that of Gilbert Leonard, and that said signatures attached to said document are respectively theirs, and genuine; that he knows Leonard to have filled the office of acting contador, (treasurer by commission,) in place of Morales, really contadora, but acting as intendant; and Armirez to have officiated as acting treasurer, though really an employé in the contadorie; that he knows the signature of Carlos Trudeau, and recognises his signature attached to the plan connected with said document (1685) to be genuine; that he has seen both Morales and Trudeau write and sign their names; deponent says that the entire procès verbal of survey, attached to said plan, is in the handwriting of Trudeau.

Deponent here explains, that in all official transactions under the Spanish government, the notary, by way of identifying each original folio recognised as authentic by him, was obliged thereto to affix his paraphe or flourish; he can say nought as to the flourish on each folio of the procès signed by Ximenes; that the object of making these flourishes was to verify and validate each sheet.

Deponent says that Morales exercised the functions of intendant of La. in 1803, 1804, and also of the province of West Florida, (comprised within La.); that West Florida, (from Pearl river to the Mississippi,) remained under the Spanish government until the "insurrection" 1811, he thinks.

Deponent states that the document (already referred to) is not a grant, but an actual sale of the land to which it gives a title.

Deponent knew Geronimo Chiapella as a resident of New Orleans; said Chiapella had children older than deponent. Was well acquainted with Jayme Jorda.

Deponent states that Trudeau was, by the laws of Spain governing Louisiana, authorized to give certified copies of plans in his office; that Don Sebastiano Pintado was deputy surveyor for that portion of the province of Louisiana; that the surveyor general was not authorized to make a survey of land without a special order to that effect from the chief of the government, which chief was, in 1803–'4, the intendant.

Being shown the document marked No. 2, also contained in the Record book already referred to, and entitled, "Concecion de 40,000 arpanes de tierra planos, hecha á titulo de venta al Capn. Dn. Jayme Jorda, en la poblacion de Sta. Helena, distrito de Baton Rouge," deponent states that the signatures of Juan Ventura Morales, Carlos Ximenes, Gilbert Leonard, and Manuel Armirez thereto attached, are in his opinion true and genuine; that he was acquainted with all the gentlemen named in 1804.

On examining the plan of survey of 40,000 arpents in favor of Jaime Jorda, (No. 1650,) and the procès verbal thereto attached, states that the entire procès verbal in question is in the handwriting of Trudeau, and that the signature at the bottom thereof is genuine.

Mr. Bouligny says, that he is a creole of this country; that he was a major (in age) in 1804.

Being shown the plan numbered 1686, (6308 arpents in favor of Don Geronimo Chiapella,) deponent states that the entire procès verbal accompanying (following) said plan is in the handwriting of Carlos Trudeau, and actually signed by him.

No cross questions.

Signed, L. BOULIGNY.

It is agreed by the counsel for the plaintiffs and for the defendants, that the foregoing depositions shall be read as well in the case of "Widow Leonard et al. vs. the U. States," as in that of "the Citizen's Bank of La. vs. the U. S."

Signed, THOMAS J. DURANT,
Att'y U. S. for La.

" DENNIS, PITOT, & HOFFMAN,
Attorneys.

I, Robt. M. Lusher, deputy clerk of the U. S. district court, duly empowered by the ninth rule of practice in land causes in said court, to act, in the absence of the clerk, as commissioner in taking testimony in such causes, do hereby certify, that the foregoing depositions, faithfully interpreted by me from the French into the language in which they now appear, are the depositions of J. F. Livaudais, A. Cavelier, and Louis Bouligny, esqs., witnesses introduced by the plaintiffs; that said depositions, after having been read over to them, were, in my presence, signed by the said deponents respectively; and that the agreement following was likewise signed in my presence. As witness my hand and seal this 24th May, A. D. 1848.

Signed, For N. R. JENNINGS, *Comm'r.*
ROBT. M. LUSHER, [SEAL.]
D'y Commissioner.

256.

3°. The plaintiffs offered in evidence a certified copy of a transfer of 10,000 acres of land by J. Jorda to G. Leonard, dated 15th Jan'y, 1811, which document is as follows:

Sepase que yo, D. Jaime Jorda, vecino de esta ciudad, digo: que en dos de Enero, de mil ochocientos y quatro, obtuve una concesion de tierra de quarenta mil arpanes planos, expedida por el Sor. D. Juan Ventura Morales, intendte. and superintendte. interino de la prova. de la Florida occidental, situada en la poblacion de Sta. Helena, distrito de Baton Rouge, en conformidad del titulo, plano, apeo y deslinde que se hizó de ella y tengo en mi poder, por la cantidad de quarenta y un mil ciento y ochenta rs. de plata, qe. enteré en reales caxas, como todo mas bastante consta de dha. concesion y plano á que me refiero; y en atencion á que he comprado dha. tierra á instancia de varios individuos de este ciudad, para ellos, y de su proprio peculio, no habiendo podido presenciar este acto de compreda, por razones particulares que tuvieron en aquella epoca, y que actualmente solicitan su respectivo titulo de propiedad en forma, pa. hacer constar son los legitimos compradores de dhos. quarenta mil arpenes de tierra. Por tanto en la mejor forma que haya, higar por dro. declaro bajo de juramento en forma qe. he prestado por ante el preste. noto. publico, que dha. tierra no me pertenece de ningun modo, y si, a los sugetos qe. se nominaran á medida que se vayan presentando pa. obtener de mi esta declaracion, y traspaso de dha. tierra respectivamente. En cuia consecuencia, habiendose presentado D. Gilberto Leonard, uno de los proprietarios de dha. tierra pa. reclamarme la que le corresponde consequente al plano figurativo que me ha mostrado, de la cantidad de diez mil arpanes de tierra planos que solicita, sin embargo de que por el mismo plano consta por el agrimensor D. Carlos Trudeau, haber sido vendidos á D. Rodulpho Jph. Ducros, y cuia escritura de venta no ha tenido efecto a favor de este, y de consiguiente pertenecen al indicado D. Gilberto Leonard. Otorgo por la presente que cedo, renuncio, y traspaso à favor del memorado D. Gilberto Leonard, los diez mil arpanes de tierra planos que son parte de los quarenta mil antecitados, situados en el parage ya mencionado; que son libres de hipoteca, como lo he hecho constar por certn. de su anotador, y por precio de diez mil doscientos noventa y cinco reales de plata que enteró dho. D. Gilberto, de su propio peculio en arcas reales, en aquella epoca. Mediante lo cual me aparto del dro. de propiedad, posecion, util, señorio, y demas acciones reales y personales que á dhos. diez mil arpanes de tierra planos habia y tenia, y todo lo cedo, renuncio, y transfiero a favor del memorado D. Gilberto Leonard, y en quien su causa hubiere pa. qe. como suios propios, adquiridos con legitimo titulo de compreda, los posea, venda, ó enagene á su voluntad en virtud de esta escritura que á su favor. Otorgo en señal de rl. entrega, con lo que es visto haber adquirido su posecion sin que necesite de otra prueba, de que le relevo. Bien entendido que no salgo garante de la eviccion, seguridad, ni saneamiento de dhas. diez mil arpanes de tierra planos que

le he cedido, por quedar, como quedo exento, libre y descargado de todo y cualquiera responsabilidad y reclamaciones de cualesquiera clase y naturaleza que fuesen, tanto en el tiempo presente, como en lo venidero, por cualquiera nacion, o gobierno, á quien el dominio pertenezca ó perteneciere; por haber sido un mero confidente en este asunto, yo, el citado D. Jaime; y estando presente, yo, el relacionado D. Gilberto Leonard, accepto esta escritura de traspaso a mi favor, por el precio, conformidad, el ausulas y condiciones circumstanciados; de cuios diez mil arpanes de tierra planos me doy por entregado á mi voluntad; renuncio la prueba, leyes de su entrega; las de la cosa non vista ni recibida, do lo y demas del caso de que otorgo recibo en forma a favor del citado D. Jaime Jorda; y lo doy por libre y discargado enteramente de toda responsabilidad como queda clausulado. En cuio testimonio, es fha. la carta, en esta ciudad de la Nueva Orleans, á quinze de Enero de mil ochocientos y onze años, y el trigesimo quinto de la independencia Americana; yo el notario puco., doy fe conozco á los otorgantes que lo firmaron con los tgos. que lo fueron D. Nicolas Girod, y D. David Wright, vecinos y presentes.

Signed JAYME JORDA,
GILBERTO LEONARD,
D. WRIGHT,
N. GIROD, *temoin*
STEPHEN DE QUINONES,
Noty. pub.

A true copy from the original extant in the records of my notarial office, New Orleans, the 9th of June, 1848.

[SEAL.] Signed OCTAVE DE ARMAS,
Not. pub.

4o. The plaintiffs offered in evidence a certified copy of the testament of Gilbert Leonard, dated 28th October, 1837; which document is as follows:

Aujourd'hui, le vingt huitième jour du mois d'Octobre, de l'année mil huit cent trente sept, et la soixante deux de l'independance des Etats Unis d'Amerique.

Pardevant Philippe Lacoste, notaire public dans et pour la ville et paroisse de la Nouvelle Orleans, dûment commissionné et assermenté en présence des témoins ce-après nommés et sousignés.

Fut présent l'honorable Gilbert Leonard, juge de la paroisse Plaquemines en cet etat y demeurant, étant ce jour en la ville de la Nouvelle Orleans.

Lequel étant sain d'esprit, de mémoire, de jugement, et d'entendement ainsi qu'il est apparu à moi dit notaire et à Messieurs Stephen Le Gardeur, Edouard Planchard, et Eugene Montreuil, tous trois témoins à ce requis et domiciliés en cette ville; nous a déclaré que dans la crainte d'être surpris par la mort il voulait faire acte de dernières volontés et nous requérait en notre qualité de recevoir son testament, ce que j'ai

fait immediatement de ma propre main à fur et mesure de sa dictée, en présence des dits témoins et comme suit.

Je me nomme Gilbert Leonard; je suis agé d'environ trente huit ans; je suis né à la Nouvelle Orleans, du légitime marriage de Gilbert Leonard, et dame Adelaide de Reggio, mes père et mère, tous deux décédés.

Je suis marié légitimement avec Dame Hortense Lacoste, et je n'ai point d'enfant issu de mon marriage.

Je nomme et institue pour ma seule et unique hérétiere et légataire universelle, de tous les que je laisserai lors de mon décès, en quelque lieu qu'ils se trouvent et à quelque somme qu'ils s'élèvent la dite Dame Hortense Lacoste, mon epouse, que je nomme aussi par les présentes pour mon executrice testamentaire et détentrice de tous mes biens.

Je révoque et annulle par les présents tous autres testamens, codiciles, et autres dispositions pour cause de mort, que je puis avoir faits avant celui-ci auquel seul je m'arrête comme contenant mes dernières volontés.

C'est ainsi que ce testament a été dictée par le testateur au notaire soussigné en présence des dits témoins, et le dit notaire lui en ayant de suite en présence des mêmes témoins, donné lecture à haute et intelligible voix, il a declaré le bien entendre et comprendre et y perseverer.

Dont acte, fait et passé en l'etude à la Nouvelle Orleans, les jour, mois, et an que dessus, de suite sans interruption, et sans divertir à d'autres actes, en présence des témoins sus nommés, qui ont signé avec le testateur et moi, notaire, après lecture faite.

(Signé) G. LEONARD,
ERD. PLANCHARD,
E. MONTREUIL,
S. LE GARDEUR,
PHI. LACOSTE, *Not. pub.*

Pour copie conforme à l'original reste en mon étude pour recours.

En foi de quoi j'ai signé les présents et y ai apposé le sceau de mon office, à la Nouvelle Orleans, le trois Juin, mil huit cent quarante huit.

[SEAL.] (Signed) PHI. LACOSTE,
Not. pub.

5o. The plaintiffs offered in evidence, a certified copy of the probated will of Gilbert Leonard, with the orders of court of the parish of Plaquemines thereon; which document is as follows:

To the honorable the court of probates, in and for the parish of Plaquemines:

The petition of Hortense Lacoste, the widow of the late Gilbert Leonard, formerly judge of the said parish, and of course therein residing, humbly sheweth:

That the said Gilbert Leonard, petitioner's husband, died on Tuesday, the eighth April instant, eighteen hundred and forty-five. That no issue remains of their aforesaid marriage.

That Gilbert Leonard has left a nuncupative testament, by public act passed before Phil. Lacoste, esq., a notary public of New Orleans.

That a notarial copy of said testament is hereto annexed as part of this petition.

That by said testament the petitioner is named, constituted, and appointed universal legatee, and only heir of her aforesaid husband, Gilbert Leonard.

That by the said testament petitioner is also named and appointed his testamentary executrix, with the seizin of all his estate.

Wherefore petitioner, under the reservation of all her rights, and of each and every one of them, prays that testament of her aforesaid husband, contained in the notarial copy hereto annexed, be approved and homologated according to law.

That the execution of the same be ordered, and that petitioner may receive her testamentary letters, and be sworn in her aforesaid capacity.

Petitioner further prays for all other legal and equitable relief; and as, and, &c.

(Signed) E. A. CANON, *of Counsel.*

Filed 14*th April*, 1845.

(Signed) CHAS. DUTILLET, *Judge.*

Order.

Let the last will and testament of the honorable Gilbert Leonard, deceased, of this parish, made before Phillippe Lacoste, esq., notary public in New Orleans, dated October 28th, 1837, and hereto annexed, be approved and homologated, according to law; that the execution of the same be ordered, and that petitioner may receive her testamentary letters, and be sworn in her aforesaid capacity.

Parish of Plaquemines, 14th of April, 1845.

(Signed) CHS. DUTILLET, *Judge.*

Testament.

Aujourd'hui, le vingt huitieme jour du mois d'Octobre, de l'année mil huit cent trente sept et la soixante deuxième de l'independance des Etats Unis d'Amerique.

Pardevant Phillippe Lacoste, notaire public dans et pour la ville et paroisse de la Nouvelle Orleans, dûment commissionné et assermenté, et en présence des témoins ci-après nommés et soussignés.

Fut présent l'honorable Gilbert Leonard, juge de la paroisse Plaquemines en cet état y demeurant, etant ce jour dans la ville de la Nouvelle Orleans.

Lequel étant sain d'esprit, de mémoire, de jugement, et d'entendement, ainsi qu'il est apparu à moi dit notaire et à messieurs Stephen Le Gardeur, Edouard Planchard, et Eugène Montreuil, tous trois témoins à ce requis et domiciliés en cette ville, nous a déclaré que dans la crainte d'être surpris par la mort, il voulait faire acte de dernières volontés, et

nous requérait en notre qualité de recevoir son testament ce que j'ai fait immediatement de ma propre main à fur et à mesure de sa dictée, en presence des dits temoins et comme suit.

Je me nomme Gilbert Leonard; je suis agé d'environ trente huit ans, je suis né à la Nouvelle Orleans du légitime mariage de Gilbert Leonard et de dame Adelaïde de Reggio, mes perè et mère, tout deux décédés.

Je suis marié légitimement avec dame Hortense Lacoste, et je n'ai pas d'enfant issu de mon mariage.

Je nomme et institue pour ma seule et unique héritière et legataire universelle de tous les biens que je laisserai lors de mon décès, en quelque lieu qu'ils se trouvent et à quelque somme qu'ils s'élevent, la dite dame Hortense Lacoste, mon epouse, que je nomme aussi par les présentes pour executrice testamentaire et detentrice de tous mes biens.

Je revoque et annulle par les présentes tous autres testaments, codiciles, et autres dispositions pour cause de mort que je puis avoir fait avant celui-ci auquel seul je m'arrête comme contenant mes dernières volontés.

C'est ainsi que ce testament a été dicté par le testateur au notaire soussigné, en présence des dits temoins et le dit notaire lui en ayant de suite, en présence des mêmes témoins donné lecture, à haute et intelligible voix, il a declaré le bien entendre et comprendre et y perseverer.

Dont acte, fait et passé en l'étude à la Nouvelle Orleans, les jour, mois, et an que dessus, sans interruption, et sans divertir à d'autres actes, en presence des temoins, sus-nommés, qui ont signé avec le testateur et moi, notaire, après lecture faite.

Signé: G. Leonard, S. Le Gardeur, Erd. Planchard, E. Montreuil; Phil. Lacoste, not. pub.

Pour copie conforme à l'original resté en l'étude pour recours. Nouvelle Orleans, le onze Avril, mil huit cent quarante cinq.

"Signé," PHIL. LACOSTE, *Not. Pub.*

Filed 14th April, 1845.

"Signed," CHS. DUTILLET, *Judge.*

I, Charles Dutillet, clerk of the second judicial district court of Louisiana, do hereby certify, that the foregoing is a true copy of documents on file and on record in my office.

Parish of Plaquemines, June 5, 1848.

(Signed) CHS. DUTILLET, *Clerk.*

6°. The plaintiffs offered in evidence the depositions of Etienne Mazureau, taken before and by the deputy commissioner, on the 2d June, 1848, which deposition is as follows:

Widow Leonard et al.
vs.
The United States. } No. 119.

CLERK'S OFFICE, *June* 2, 1848—4½ p. m.

Before me, Robert M. Lusher, deputy commissioner in land causes under the ninth rule of the district court of the United States, for the district of Louisiana, in such causes, this day appeared the plaintiffs and defendants in the above entitled suit. Messrs. W. W. Hoffman and A. Pitot for the former, and the United States district attorney for the latter; when I proceeded to take down, as follows, in writing, the deposition of Etienne Mazureau, esq., a witness introduced on behalf of the plaintiffs.

Mr. Etienne Mazureau, sworn, deposes that he was intimately acquainted with Mr. Gilberto Leonard, whose signatures he has already recognised in his deposition in the case of the citizens' Bank of Louisiana vs. the United States; witness knew Gilbert Leonard, (now dead,) the son of Gilberto, named above; the same who afterwards married Hortense Lacoste; Gen. Gilbert Leonard died, witness thinks, without issue; witness also knew Leocadie Leonard, daughter of Gilberto; she married Beauregard, a creole of this country; witness also knows that Gilberto had another daughter, who married Mr. Charles Dehault Delassus; both of these are dead. Witness knew no others of Gilberto's children than those above mentioned.

No cross examination by the district attorney.

Signed, MAZUREAU.

I, Robt. M. Lusher, deputy commissioner as above, do certify, that the foregoing is the true deposition of E. Mazureau, esq., a witness for the plaintiffs in the cause entitled the "Widow Leonard et al. vs. the United States;" that the same was read over to him, the witness, after which he thereto, in my presence, affixed his name with his own hand, as here attest my hand and seal, this second day of June, 1848.

Signed, ROBT. M. LUSHER, [SEAL.]
Deputy commissioner in land causes.

7o. The plaintiffs offered in evidence the depositions of Chs. Derbigny and Bernd. Marigny, taken before and by the deputy commissioner, on the 3d June, 1848; which depositions are as follows:

United States district court.

WIDOW LEONARD et al.
vs.
THE UNITED STATES. } No. 119.

CLERK'S OFFICE, *June* 3*d*, 1848—5 p. m.

Before me, Robt. M. Lusher, deputy commissioner in land causes, according to the ninth rule of practice of this court in such causes, this day appeared the plaintiffs, by their counsel, Hoffman & Pitot, and the defendants, by their attorney, Thomas J. Durant; when, in furtherance of notices issued at the request of the plaintiffs, to Messrs. Charles Derbigny and Bernard Marigny, these gentlemen being now present, I proceeded to take their depositions in writing, as follows:

Mr. Charles Derbigny, a witness for the plaintiffs, being sworn, deposes that he was intimately acquainted with Mr. Chas. Debault Delassus, who was witness' mother's brother, and lived a long while in the family of witness' mother. He married a daughter of Mr. Gilbert Leonard, the father of Gen. Gilbert Leonard, lately judge in the parish of Plaquemines. Witness knew the elder Leonard at Baton Rouge, and subsequently, after 1811, on the right bank of the river above New Orleans, where he lived with his son-in-law, Mr. Delassus. Mrs. Delassus was the elder Leonard's eldest daughter. Witness knows Mr. Delassus and his wife to be both dead; the former died about four years ago, the latter many years since. By his marriage, Mr. Delassus had but one child, who is now living. (Witness also states that there was, he believes, another child by the marriage, who died immediately after its birth.) The son now living (the "only child" spoken of,) is Auguste Delassus, who married Miss Jeanne Blanque, and who is now over thirty years of age.

No cross questions by the district attorney.

The witness states that Auguste Delassus is at least 35 years old.

Signed, C. DERBIGNY.

Mr. Bernard Marigny, also for the plaintiffs, being sworn, deposes that he was intimately acquainted with Mr. Gilbert Leonard, who was treasurer under the Spanish government. In the two concessions alluded to in the depositions taken in the case of the Citizens' Bank of Louisiana vs. the United States, the witness recognises the signature of Gilberto Leonard to be genuine—the signature of Leonard, the treasurer, who was well known to him. Witness knows that Gilberto Leonard (the elder) married Adelaide Reggio, and by his marriage had four children; one of whom, witness believes, died before his father, and the other three of whom survived their father. One of them, Gen. Gilbert Leonard, who had married Hortense Lacoste, died in 1845. Mrs. Delassus (one of the children) is also dead; witness thinks her name was Adelaide. The fourth child (who is now alive) married Mr. Beauregard. To witness' knowledge, the only heir left by Mr. and Mrs. Delassus is Auguste Delassus. Witness also knows that, by his marriage with Miss Lacoste, the late Gilbert Leonard left no children. Witness, on being shewn the concessions, &c., already alluded to, recognises as genuine the signatures, respectively, of Juan Ventura Morales, (who was witness's father-in-law,) Carlos Ximenes, Gilberto Leonard, Manuel Armirez, and Carlos Trudeau. The fancy-shaped paper attached to the document near the name of Morales, witness recognises as the said Morales' ordinary way of "surrounding his seal."

On questions by the district attorney.

M. Marigny states that the concession of Chiapella belonged to him formerly; that of the concession to Jorda he ceded to the citizens' Bank 24,000 arpents, and to the entire concession to Chiapella he likewise ceded his rights to said bank. Both these concessions were ceded,

without guarantee, to the Citizens' Bank. Witness never owned more than 24,000 arpents of the "Jorda concession."

Signed, BERNARD MARIGNY.

Certifying that the foregoing three and a third pages contain the true and exact depositions of Messrs. Charles Derbigny and Bernard Marigny, in the case of "Widow Leonard et al. vs. the United States;" that said depositions were, when written, read aloud to the said witnesses, and by them respectively signed in my presence, I hereunto set my hand and affix my seal, this third day of June, 1848, and the 72d year of American independence.

Signed, ROBT. M. LUSHER, [SEAL.]
Deputy commissioner in land causes.

And further, at the said May term, to wit, on the 15th of June, 1848, the following entry was made of record in this case:

WIDOW LEONARD et al.
vs. } 119.
The UNITED STATES.

The trial of this cause was to-day resumed, Messrs. Dennis and Hoffman appearing for plaintiffs, and Thos. J. Durant, esq., U. S. district attorney, for the defendants.

After argument of counsel, the court took the case under consideration.

And further, at the same term, to wit, on the 17th day of November, 1848, the following judgment was rendered, and entered of record in this case:

WIDOW LEONARD and others
vs. } 119.
THE UNITED STATES.

This cause came on to be heard at the May term of this court, and was argued by counsel. Upon an attentive consideration of the law and the evidence, the court being satisfied that the concession of forty thousand arpents of land, situated in the parish of East Feliciana, and described as in the new establishment or post of St. Helena, district of Baton Rouge, made in the year 1804, by Don Juan Ventura Morales, then intendant and sub-intendant pro tempore, of the province of West Florida, to Jayme Jorda, was a good, lawful, and valid grant to the said Jorda, by a legal title in form, made by the Spanish authorities, and secured to him as his private property, by the treaty between the United States and the French Republic, of the 30th April, 1803.

That Hortense Lacoste, widow of Gilbert Leonard, Leocadie Leonard, widow Beauregard, and Auguste Delassus have proved a good title in them to so much of the concession or grant to said Jorda as is claimed in their petition by a regular conveyance from the original grantee and owner, to wit, Jayme Jorda, to their ancestor.

2505.

It is ordered, adjudged, and decreed, that the said Hortense Lacoste, Leocadie Leonard, and Auguste Delassus be declared the true and lawful owners of, and entitled to recover from the United States, the following described tract of land, situated within the limits of said grant or concession, and be forever quieted and confirmed as against the United States in the ownership and possession of the same, to wit:

Ten thousand arpens of land acquired by the said Gilbert Leonard, ancestor and donor of said petitioners, from said Jorda, by act before Stephen de Quiñones, notary public, on the fifteenth of January, 1811.

Judgment rendered November 17th, 1848.

Judgment signed November 21st, 1848.

Signed, THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And further, at the same term, to wit, on the 5th day of December, 1848, the following motion and order of appeal was entered of record in this case:

Be it remembered, that on this fifth day of December, in the year one thousand eight hundred and forty-eight, at the May term of the said district court, in his own proper person, comes Thomas J. Durant, attorney of the United States for the district aforesaid, and on giving the court here to understand and be informed that the United States are injured and aggrieved by the judgment of this honorable court rendered against them at this term, in the matter of the Widow Leonard et al. vs. the United States, and desire to appeal therefrom.

It is therefore ordered by the court, that an appeal be allowed in favor of the said United States from the judgment aforesaid, returnable to the Supreme court of the United States at the next term thereof after the date of this order.

Finis.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing forty-four folios (including plan on folio 13,) and (45th) sixteen lines, contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein the Widow Leonard and others are plaintiffs, and the United States are defendants; No. 119 of the land docket of said court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, this twenty-fourth day of September, one thousand eight hundred and forty-nine, and the 74th year of American independence.
[SEAL.]

N. R. JENNINGS,
Clerk U. S. dist. court, eastern dist. of Louisiana.

[REC. CCLXXII, D. T. 1849.]—4